

P10

1938

Department of Revenue

OFFICE Board of Revenue

STATION Madras

MS. No. **3424**

Dated 2. 12. 38.

27663

ges in the file

(SUBJECT.)

Exports - (Bellary) - G. S. 1937 - No
Exemption by pial and lat
in pial lane in Bellary
Municipality - G. Seena/pacha
Exemption - Defence - Sanction

B 7663

In reply, please quote
number, date and
short title.*

Received _____ Registered _____

From (Name) W. Scott Brown Esq., C.I.E., I.C.S.,

(Designation)

Collector,

Post Box _____, (STATION) _____, Bellary.

Telegraphic Address _____

To

The Secretary to the Board of Revenue,
M a d r a s

Ref. A1. No. 3335/38, dated 23-11-1938 19

Sir,

Suits - O.S.No. 700/37 of the Bellary Municipal Council - encroachment of pial and latrine in public lane in Bellary Municipality - removal - plaintiff G. Seenappa chetty - Defendants (1) Bellary Municipality and (2) Collector of Bellary - sanction of defence.

ENCLOSURES _____

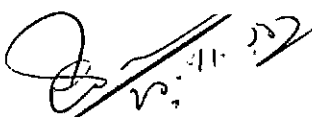
SPARE COPIES _____

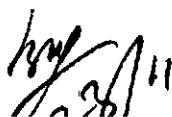
Golkonda Seenappa Chetty of Bellary made an encroachment of pial and latrine measuring 29' X 11'-10" in front of his house bearing D.No.226 of Bellary Municipal Ward No.III. The site in question forms part of the drain margin of a public lane in the Municipal area according to the Sanitary plans (1907) and the Cadestral Survey plan (1879). The plaintiff claims the site as his own by adverse possession and sues for a permanent injunction restraining the defendants, i.e. (i). The Municipal Council and (ii) the Collector of Bellary from removing the encroachments. As the public lane is a Government site vested in the Municipality, I request that the Board may be pleased to accord sanction for the defence of the suit, and approve the draft written statement prepared by the Government Pleader, Bellary on behalf of the Government. It is doubtful if the Council will regard the Sanitary Plan of 1907 as conclusive evidence, and the case for opposing the suit does not seem particularly strong, but as the Municipality wishes to oppose it and there is some oral evidence of adverse possession for about 40 years it is desirable that Government should oppose the suit.

at P 11 cf

as VII &
VII at P 44

2. Copies of the plaint, the Bellary Tahsildar's report dated 27-9-1938, plan of the site and copy of the draft written statement prepared by the Government Pleader are enclosed. The suit stands adjourned to 9-12-38 for filing the written statement.


For Collector.



- In the Court of the District Munsif of Bellary.

C.S. No. 700/1937.

Between

G. Seenappa Chetty

plaintiff.

and

- (1) The Municipal Council, Bellary
represented by its Commissioner --)
(2) (Secretary of State for India in Council)
represented by the Collector, Bellary --) Defendants.

Plaint on behalf of the plaintiff under section 20, C.A.A.

--

1. Plaintiff - Golkonda Seenappa Chetty son of Rangian Chetty
(son of Rangian Chetty), aged 54 years, Vysya, merchant, resident
of Bellary, Address.

for service to c/o. N. Seshagirirao, B.A.B.L., Advocate, Bellary.

II. (1) Defendant - The Municipal Council, Bellary represented
by its Commissioner.

(2) The (Secretary of State for India in Council) represented
by the Collector of Bellary.

III. The plaintiff is the owner of the house described in the
schedule hereto having purchased the same by means of a regis-
tered sale deed dated 19-10-1936 for a consideration of Rs.600/-
He is in possession and enjoyment of the house as described in the
sale deed. The house has a pial in front and has got a latrine on
the western side on the pial. The latrine and pial have been used
by the persons in occupation of the house as tenants and owners
and the predecessors in title and their tenants for over the
statutory period. The latrine and pial in question have been in
existence from time immemorial.

IV. The 1st defendant through its officers are now claiming
the latrine and pial as encroachments and are compelling the
plaintiff to remove and demolish the latrine and pial and are threat-
ening to demolish the abovesaid latrine and pial through its
servants in case the plaintiff does not remove the latrine and
pial by demolishing. The plaintiff has represented to the 1st
defendant in writing that the latrine and pial in question are not
encroachments and have been in existence from time immemorial.

enjoyment of the plaintiff and his predecessors in title In spite of this, the 1st defendant through its officers and subordinates are threatening to remove the alleged encroachments by demolishing by its servants. The 1st defendant through its subordinate officers informed the plaintiff that the latrine and pial in question are encroachments and asking him to remove the encroachments in the first week of December 1937

IV.a. The 2nd defendant is added as a party in the suit at the instance of 1st defendant and as ordered by the Hon'ble court in T.A. 218/38 on 12-8-38.

The plaintiff apprehends that the officers and subordinates of the Municipality would remove the encroachments by asking its servants to demolish the latrine and pial during the period the court is closed for vacation. The plaintiff values the latrine and pial at Rs.10/-

VI. Cause of action arose, to the plaintiff against the defendant at Bellary within the jurisdiction of this court in the first week of December 1937, and subsequently.

VII. The present suit is for a declaration that the latrine and pial in question are not encroachments as they have been in existence and in possession and enjoyment of the plaintiff, his predecessors in title and their tenants for over the statutory period and for a permanent injunction restraining the defendants, their officers and their subordinate and servants from interfering with the use of the latrine and pial by the plaintiff and his tenants by demolition. Under Section 7 Clause IV(c) of the Court Fees Act, stamp duty is paid on Rs.5/- half the value of the latrine and pial.

VIII. The plaintiff therefore prays

a) for a declaration that the latrine and pial in question are not encroachments as alleged by the 1st defendant as they have been in existence and in possession and enjoyment of the same by the plaintiff, his predecessors in title and their tenants for over the statutory period;

b) for a permanent injunction restraining the defendants its officers, representatives, subordinates and servants from interfering with the possession and enjoyment of the latrine and pial by the plaintiff and his tenants by demolishing, (c)

(c) for costs of suit to be recovered from the 1st
and (d) such other reliefs as to the courts seems fit
circumstances of the case.

/True Copy/

Pleader for the plaintiff -- Plaintiff.

Verification -- I, Golkonda Seenappa Chetty, the plaintiff
herein do declare that what is stated in all the above parts
is true to the best of my knowledge and belief and signed by
at Bellary on day of December 1937

Plaintiff.

Schedule.

Roofed house facing North situated in Bellary Municipality
in the registration district of Bellary-Anantapur and in the
sub-district of Bellary towards south of the way leading to
Gatta Kindanavi alias Matikaionavi in the present III ward
bearing Municipal No. 209 corresponding to old I ward bearing
Municipal Door Nos. 280, 308 and A Ward Door No. 263, including
a pial in front and a latrine towards west measuring 10 yards
east to west and 16 yards North to South and having the following
common boundaries -- III ward door number 226 after 1-4-37.

East -- House of Mr. Leightons.

West -- House of Bilao Joseph.

North - ~~V~~anka and way.

South - Sankarlal Garden.

Plaintiff.

/True Copy/

jrm.

Copy of letter L.Dis. No.2777/38 dated 27-9-1938 from the Tahsildar, Bellary, to the Collector, Bellary.

Suits - O.S. 700/37 District Munsif's Court, Bellary - Encroachment - Bellary Municipality - Plaintiff - Golkonda Seenappa Chetti - report submitted.

1 The report of the Revenue Inspector, Bellary and the record of enquiry made by him together with a sketch of the site involved in the suit are submitted herewith.

2 The Plaintiff, G. Seenappa Chetti owns a house in Ward No. III bearing door No. 226.

3 The Revenue Inspector reports that the plaintiff produced before him a copy of the sale deed of 1912 relating to the subject matter of the suit, the original document having been filed in the District Munsif's Court, Bellary in connection with the present suit. The Revenue Inspector further reports that the measurements of the house are not noted but a mention of the latrine and pavement attached to the house is made therein.

4 The house with the latrine and pavement attached thereto are situated in S.No. 449 of Bellary which is classed as village site poramboke.

5 The site occupied by the latrine and the pavement forms the drain margin and is vested in the Municipality.

6 The Revenue Inspector also reports that the Municipal encroachment officer on the basis of the sanitary plans 1907 and the cadastral survey plan of 1879 has treated the site occupied by the said latrine and pavement as encroachments on the Municipal land and directed the plaintiff to vacate the site in favour of the Municipality.

7 The record of enquiry shows that the said latrine and the pavement which form the subject matter of the suit now have been in existence for some years but there is no positive or documentary proof that it is 30 years old. The Revenue ~~Inspector~~ Department has not booked the encroachment.

Copy of letter D.D. No. 277/33 dated 27-8-1938 from
the Tahsilgar, Bellary, to the Collector, Bellary.

Encls - O.S. 700/33 District Tahsilgar's Court, Bellary -
Enclosurement - Bellary Municipality - Plaintiff - Gollonda
La nappa Chetti - report submitted.

The report of the Revenue Inspector, Bellary and the
record of enquiry made by him together with a sketch of the site
involved in the suit are submitted herewith.

The Plaintiff, G. Saranappa Chetti owns a house in Gollonda
No. III bearing door No. 282.

The Revenue Inspector reports that the Plaintiff
produced before him a copy of the sale deed of 1918 relating to
the subject matter of the suit, the original document having been
filed in the District Tahsilgar's Court, Bellary in connection with
the present suit. The Revenue Inspector further reports that the
measurements of the house are not noted but a mention of the
lathies and pavement attached to the house is made therein.
The house with the lathies and pavement attached thereto
are situated in S.No. 449 of Bellary which is classed as village
site Gollonda.

The site occupied by the lathies and the pavement forms
the main margin and is vested in the Municipality.
The Revenue Inspector also reports that the Municipal
Commissioner's Officer on the basis of the sanitary plans 1907 and
the cadastral survey plan of 1879 has treated the site occupied
by the said lathies and pavement as encroachment on the Municipal
land and directed the Plaintiff to vacate the site in favour of
the Municipality.

The record of enquiry shows that the said lathies and
the pavement which form the subject matter of the suit now have
been in existence for some years but there is no positive or
documentary proof that it is so years old. The Revenue Inspector
has not booked the encroachment.

In the Court of the District Munsif of Bellary.

C.S.No. 700 of 1937.

between

G.Jeenappa Chetty

Plaintiff.

and

(1) The Municipal Council, Bellary

(2) ~~The Provincial Government~~ ^{Province of Madras} represented by the Collector, Bellary

Defendants.

Written statement of second defendant.

1. This defendant denies all the allegations in the plaint which are not expressly admitted and puts the Plaintiff to strict proof of the same

2. The suit for injunction is not maintainable in the circumstances.

, 3 of.

3. The description of second defendant is wrong.

4. This defendant denies that the latrine and plot in dispute have been in existence "from time immemorial" and that the Plaintiff and his predecessors in title and their tenants have been using the same for over the statutory period. Plaintiff is put to strict proof of the same.

5. The defendant submits that the latrine and plot are encroachments and that the site formed part of the drain system and vested in the Municipality and that the same is shown out by the Sanitary plans and the cadastral survey plan.

6. The plaintiff's suit may therefore be dismissed with costs.

Advocate for 2nd defendant.

2nd defendant.

Verification.

I, the second defendant abovenamed do hereby declare that what is stated above is true to the best of my knowledge, information and belief. Signed and verified at Bellary this _____ day of _____ 1938.

2nd defendant.

/True Copy/

District

Bellamy

Taluk

Bellamy

Village { No. 68
Name B

Name

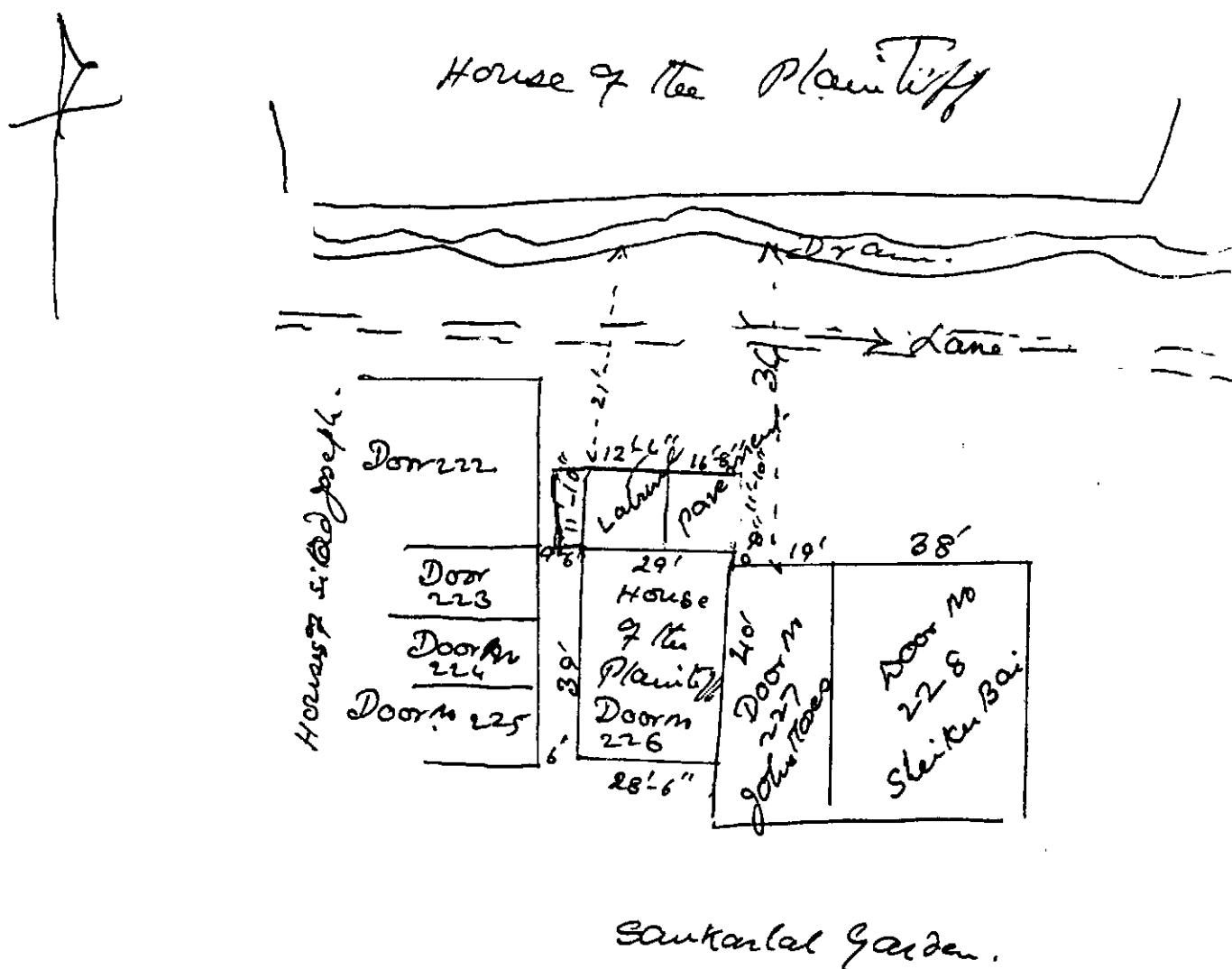
Bellary

Field No. 499

Area

Acres

45



□ Encroachment by ~~foot~~
lateral and ~~new~~ pavement.

Scale

inch=One Chain.

Phokha
C. 920

C.F. 16;

READ ALSO :—

33 _____ 33 _____ 33 19 _____

33 _____ 33 _____ 33 _____ 33 _____ 19 _____

Mark 7.c. + cover V.E.

Ine today without Paul
Pz P9cf

The Board sanction the defence of the suit & approves the draft written stat. submitted by the Cdr. with his letter cited above - subject to the following modification:-

in the description
of the second defendant
in the written statement
for the words "Province
-Govt." substitute the
words "Province of

1-11-28

112/28 112/28 112/28

To

The collector of
Bellamy

Last Date for
filing W. State.

9. 12. 38

PPI-24

Suits - (Bellary) - G.S. 1937- No. 3
Encroachment by plot + latrine
in public lane in Bellary
Municipality - J. Seenappa Chetty
Erection - Defence -

B 7663 From the Col. 7

Bellary Ref A-1. 3331

8/23. 11. 38.

10 copy.

Attention is invited to
the sketch at P11 of.

... a VIII - P4 of 2. The suit by The Plaintiff is for a declaration that the suit site (latrine + pia) is not an encroachment as it has been in existence & in possession & enjoyment by the Plaintiff his predecessors in title & their tenants for over the statutory period & for a permanent injunction restrain the Defendants (The Municipal Council & The Govt.) from interfering with the possession enjoyment of the latrine & pia by the Plaintiff & his tenants by demolishing them.

in a public lane which is a
Govt. site vested in the Mu-
nicipality. The Cmr. has reported the
the case for opposing the same
does not seem particularly strong
as he feels doubtful whether the
Court will regard the Sanitation
Plan of 1907 as conclusive
evidence. The Cmr. however
proposes to defend the suit and
the Municipality wishes to defend
the suit & as there is ^{oral} evidence
of adverse possession for about
40 years. If the Govt. are also
impleaded as a defendant,
adverse possession for 60 years
or more will have to be
proved by the Plaintiff.

4. In the circumstances
the Board may sanction the
defence of the suit & approve
the [✓]draft to be in statu subd.
by the Cmr. subject to the
following modification: In the
description of the second

t " substitute the words "Proven
Madras"

~~10/11~~
9.11.38
17
29.11.38

A. May be a p/d. The
sketch at p. 11 C.F. also supports
the view that the suit site is an
encl.

~~8~~
1.12.38

M. I. ~~10/11~~
2/12

To I A

Draft subd.

~~10/11~~
2/12/38.
17
1/12

~~10/11~~
2.12.38

CEOV.
2- 3 30

Must issue order
8/12

1A

ASSOCIATION CHECK SLIP

Mj 3424

2-12-38

Single Member.

~~Two Members.~~

~~Full Board.~~

A.D.S. Asst. Secy.
 & L.R. Sett. Sep. J.S. Sec
 L.R. Rev.

It was by

passed to.

by
 1612

Passed for record.

A.S. (L.R.)

by 1624

~~A.S. (Sett.)~~

A.S. (Sep. Rev.).

~~A.D.S. & L.R.~~